

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2017

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.5503 of 2011

M.Arulselvam

... Petitioner

Versus

The District Addiravida & Tribal
Welfare Officer,
Perambalur District,
Perambalur.

.... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus directing the respondent to issue Order of appointment to the petitioner, appointing him as a Cook based on the Interview held on 18.02.2011 with all consequential monetary and other service benefits.

For Petitioner : Mr.M.Gnanasekar

For Respondents : Mr.D.Suryanarayanan
Government Advocate

O R D E R

The Writ Petition has been filed seeking for a Writ of Mandamus directing the respondent to issue Order of appointment to the petitioner, appointing him as a Cook based on the Interview held on 18.02.2011 with all consequential monetary and other service benefits.

2.The petitioner has passed SSLC and registered his name in the District Employment Exchange, Perambalur on 23.02.2000 and the same is renewed in the month of February 2012. The petitioner's name was sponsored by the District Employment Exchange, Perambalur for the post of 'Cook'. The petitioner had appeared for an interview held on 18.02.2011 alongwith certificates regarding Age, Educational Qualification, Employment Registration, Family Card, Experience Certificate and Certificate of Residence. According to the petitioner, there were 19 vacancies for the post of 'Cook' for which nearly 60 candidates participated in the Certificate Verification and only

40 candidates participated in the interview. Out of them, 15 candidates were issued with appointment orders and remaining 4 posts were kept vacant. The petitioner has fulfilled required qualifications as prescribed for eligibility criteria for the aforesaid post. The petitioner has also produced the experience certificate to the respondent. As per the Special Rules of Tamil Nadu basic Service, the aforesaid post 'Cook' comes under category 2 class IV and the method of selection of direct recruitment shall be as follows:

"Selection of Direct recruits:

a. Selection of candidates to any of the categories by direct recruitment shall be made in the manner indicated below:

The appointing authority shall call for a panel of names from the Employment Exchange concerned, informing that office of the anticipated vacancies of the posts and the qualifications prescribed for such posts. A selection shall be made only from out of the candidates included in the panel sent by the Employment Exchange concerned. If the appointing authority finds that none of the candidates in the panel sent by the Employment Exchange is suitable for appointment, he shall send the requisition to the Employment Exchange for forwarding a second list or necessary further lists of candidates and make his selection from out of such list or lists. Appointment of persons not nominated by the Employment Exchange concerned may be made only when the Employment Exchange concerned is unable to sponsor qualified candidates, and in such cases of appointment, both the Employment Exchange concerned and the immediate superior officer of the appointing authority should be informed of the appointment and the circumstances in which such appointments had to be made. *(in respect of reserved vacancies for Ex-servicemen such vacancies shall be notified to the Director/Deputy Director/Assistant Director of Ex-servicemen's welfare who are the competent sponsoring authorities. Such vacancies shall also be notified simultaneously, to the Local Employment Exchange.)"

3. Despite the petitioner being qualified based on the eligibility criteria, the respondent has not considered appointment of the petitioner for the post of 'Cook' based on the interview held on 18.02.2011. Hence, the petitioner has approached this Court with this present writ petition.

4. Heard Mr.M.Gnanasekar, learned counsel on behalf of the petitioner and Mr.Mr.D.Suryanarayanan, learned Government Advocate on behalf of the respondents.

5. According to the learned counsel for the petitioner, the petitioner appeared for the interview on 18.02.2011 as sponsored by the District Employment Exchange. The petitioner produced all the relevant certificates as required by the respondent. In spite of that, the petitioner was not selected for the post of 'Cook'. No communication has been received from the respondent for non-selection of the petitioner.

6. The learned Government Advocate appearing for the respondent would submit that the petitioner cannot claim as a matter of right over the decision taken by the Authority. There were suitable candidates available at the time of interview, the petitioner's name was not considered for selection. Further, the petitioner has not submitted any proof for his Age and Community and hence, the eligible criteria could not be decided by the appointing authority/respondent. There is no violation in the selection process conducted by the respondent. Since, the petitioner has not fulfilled the conditions and eligibility criteria laid down for the selection of 'Cook' post, the petitioner was not selected by the Authority Concerned. As the petitioner was not selected by the Authority concerned, he was not informed and only the selected candidates were informed.

7. In the counter affidavit, the respondent has stated that the petitioner has not satisfied the conditions on the eligibility criteria laid down for the said post. Hence, the petitioner was not selected. But in the detailed counter filed by the respondent, they have not even spelt any reasons for non-selection of the petitioner. The only reason stated in the counter affidavit is that the petitioner has not submitted any proof for his age and community and therefore, he was not eligible for appointment for the post of 'Cook'. Further, the other contention is that the decision taken by the appointing selection authority/respondent is final and therefore the petitioner cannot claim as a matter of right over the decision taken by the Authority concerned. There is no proper explanation for the reasons for non-selection of the petitioner in the counter affidavit. The only reason stated in the counter

affidavit is that the petitioner has not produced the Age and Community Certificate before the authority concerned. It is also noted that, at the time of admission, by an order dated 26.04.2011, this Court has granted an interim direction to the respondent to keep one post vacant in each of the Writ Petition till further orders passed by this Court.

8. Considering the facts and circumstances of the case and submissions made by the counsel for the parties, an opportunity shall be given to the petitioner even though the petitioner has submitted that he has produced the age and community certificate to the respondent. However, another opportunity shall be given to the petitioner to produce the age and community certificate before the respondent within a period of two weeks from the date of receipt of copy of the order. The said application shall then be placed before the Selection Authority/Respondent within a period of eight weeks and thereafter, the respondent shall pass appropriate orders within a period of eight weeks.

9. With the above observation, the Writ Petition is allowed. No Costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

The District Adidravida & Tribal
Welfare Officer,
Perambalur District,
Perambalur.

+lcc to Mr.M.Gnanasekar, Advocate sr.4267
+lcc to the Government Pleader Sr.4293

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nm[co]
srg 7/2/2017